

In re) Fair Hearing No. 10,986
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Appeal of)

The petitioner appeals a decision by the Department of Social Welfare reducing his Food Stamp benefits based upon a cost of living increase in his SSI income.

1. In January of 1992, the petitioner, who is a SSI recipient, received a \$15.00 cost of living increase which raised his monthly income from \$471.99 to \$486.99.

2. On January 9, 1992, the Department of Social Welfare central office mailed across the board notices to all SSI recipients that their Food Stamp amounts would be changed due to the SSI increase. The petitioner was notified that his Food Stamp monthly benefit would change from \$19.00 to \$13.00 monthly as of February 1, 1992. He was also provided a copy of the calculations used to figure his benefits.

3. On January 14, 1992, the petitioner indicated to his worker that he would like to request a fair hearing on the January 9 Food Stamp decrease notice. When the petitioner's worker explained to him that the change was due to the SSI increase, the petitioner indicated that that was the basis for his appeal.

4. At his hearing on the appeal, which occurred almost six months after the appeal was filed,¹ the petitioner stated that he also appealed the January 9 notice because he felt he should have received a larger medical care deduction from his income based upon his large non-prescription medication bills. He alleged that he had notified the Department before January of those bills and of his trouble getting verification.

5. As the Department's representatives credibly asserted that they did not have notice of that ground for appeal and had not reviewed the information to determine the validity of that claim, the hearing officer agreed to continue that issue for one month and ruled that the only issue ripe for this appeal is the SSI income issue. However, the hearing officer also ruled that the petitioner's appeal of the medical deduction claim was timely as covered by his general timely appeal of the January notice and directed the Department to investigate that claim of error.

ORDER

The Department's decision that the petitioner's Food Stamps should be reduced due to the receipt of an SSI cost of living increase is affirmed.

REASONS

The Department's Food Stamp regulations require that "all income from whatever source" (excluding only certain specified items) be included as countable income for the

Food Stamp program. F.S.M. § 273.9(b). Further in the regulations, Supplemental Security Income is specifically included in the definition of countable "unearned" income. F.S.M. § 273.9(h)(2)(i). F.S.M. § 273.9(c), which itemizes the specifically excludible types of income, does not list SSI cost of living increases. It must be concluded, therefore, that the petitioner's SSI income is countable for SSI purposes.

After allowable deductions, the Department determined that the petitioner's net countable income after the SSI increase was \$326.15 per month. The Coupon Allotment Tables found in the Food Stamp Procedures Manual at P-2590D show that monthly net income of \$326.15 for a one person household results in a \$13.00 per month benefit. Assuming for purposes of this hearing that the medical care deduction amount of \$7.56 and the other deductions are correct, it must be concluded that the \$13.00 coupon amount calculated by the Department was consistent with the regulations.

It must be concluded then that the Food Stamp decrease was a legally correct result of the SSI increase. Although the petitioner understandably complains that he still cannot get ahead and does not have enough to live on, the regulations do assume that an increase in income means more money with which to buy food and thus less of a need for assistance with food buying. The petitioner should be aware that, if the Department and he are unable to agree on an amount to be used for medical care deductions for that

month, a hearing will be held on that discrete issue to determine whether his Food Stamps should have been increased for another reason.

FOOTNOTE

¹The hearing was rescheduled several times at the petitioner's request because of the petitioner's many hospitalizations and illnesses.

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